

Internal Revenue Service
District Director

Department of the Treasury
P.O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Telephone Number

Refer Reply to:

Employer Identification Number:

Date: NOV 02 1994

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(6) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations.

Consideration was given as to whether you qualify for exemption under other subsections of section 501(c) of the Code, and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1120 since you are a corporation.

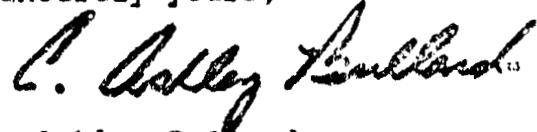
If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues." The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the Office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

[REDACTED]

If we do not hear from you within the time specified, this will become our final determination.

Sincerely yours,

A handwritten signature in cursive script, reading "C. Ashley Bullard".

C. Ashley Bullard
District Director

Enclosures: 3

Enclosure I

Information submitted establishes that you were incorporated on [REDACTED], under the laws of the State of [REDACTED].

The Articles of Incorporation state your purposes are:

- (a) To promote an interest in and an overall general awareness of the real estate industry.
- (b) To offer education, support and other appropriate services to the general public.
- (c) To provide support and other appropriate services to its members.
- (d) To do all things necessary or incident to fulfill the purpose for which this corporation was formed.
- (e) To do all things legally permitted to be done by a not-for-profit corporation in the State of [REDACTED].

Your Bylaws provide that your objectives are:

- (1) To unite those engaged in the recognized branches of the real estate profession for the purpose of exerting a beneficial influence upon the profession and related interests.
- (2) To promote and maintain high standards of conduct in the real estate profession as expressed in the Code of Ethics in the NATIONAL ASSOCIATION OF REALTORS.
- (3) To provide a unified medium for real estate owners and those engaged in the real estate profession whereby their interests may be safeguarded and advanced.
- (4) To further the interests of home and other real property ownership.
- (5) To unite those engaged in the real estate profession in the community with the Ohio Association of REALTORS and the NATIONAL ASSOCIATION OF REALTORS, thereby furthering their own objectives throughout the state and nation, and obtaining the benefits and privileges of membership therein.
- (6) To designate, for the benefit of the public, those individuals within its jurisdiction authorized to use the terms REALTOR and REALTORS as licensed, prescribed, and controlled by the NATIONAL ASSOCIATION OF REALTORS.

Enclosure I continued

[REDACTED]

Your Bylaws state that membership in your organization shall consist of seven classes of members: (1) Realtor members, (2) Institute affiliate members, (3) Affiliate members, (4) Public service members, (5) Nonresident members, (6) Honorary members, and (7) Student members.

On your application you stated that you will operate a multiple listing service for the use of your members. A multiple listing service is, generally, a means by which authorized participants make blanket unilateral offers of subagency to other participants. It is also a facility for the orderly correlation and dissemination of listing information among the participants so that they may better serve their clients and the public. In response to our letter dated [REDACTED], you stated that [REDACTED]% of your organization's time is spent on the multiple listing service.

Your organization is financially supported by membership dues, multiple listing service income, initiation fees, interest income, and rental income. Financial data you submitted reveals the following:

	[REDACTED]	[REDACTED]
MLS Income	\$ [REDACTED]	\$ [REDACTED]
Total Income	\$ [REDACTED]	\$ [REDACTED]
MLS Expenses	\$ [REDACTED]	\$ [REDACTED]
Total Expenses	\$ [REDACTED]	\$ [REDACTED]
Net MLS Income	\$ [REDACTED]	\$ [REDACTED]
MLS Income as a % of Total Income	[REDACTED] %	[REDACTED] %
MLS Expenses as a % of Total Expenses	[REDACTED] %	[REDACTED] %

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Enclosure I continued

Section 1.501(c)(6)-1 of the Regulations states that a business league is an association of persons having some common business interest, the purpose of which is to promote such common business interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league.

In Evanston-North Shore Board of Realtors v. U.S., 320 F.2d 375 (1963), the plaintiff claimed that as a real estate board, it was exempt from the payment of income taxes under section 501(c)(6) of the Code. It was held that the Illinois not-for-profit corporation was not entitled to exemption under section 501(c)(6) because it operated a multiple listing system that was not merely an incidental activity of the board of licensed realty brokers and salesmen. The operation of the plaintiff's multiple listing system could not be regarded as directed to the improvement of business conditions in the real estate market, but rather constituted the performance of a particular service for participating brokers. Tax-exempt status under section 501(c)(6) of the Code was denied.

Revenue Ruling 59-234, 1959-2 C.B. 149 discusses whether the operation of a multiple listing system by an otherwise exempt real estate board will cause it to be denied exemption from Federal income tax under section 501(c)(6) of the Code. This ruling found that such an activity is inherently designed for the rendering of particular services for individual members and that it constitutes a regular business of a kind ordinarily carried on for a profit. The ruling concluded, therefore, that where the primary purpose or activity of a real estate board is the operation of a multiple listing system, the organization does not qualify under section 501(c)(6) of the Code.

For the year ended [REDACTED], the primary expense of your organization was for the multiple listing service. For the year ended [REDACTED], the multiple listing service provided your primary source of income and was also your primary expense. Therefore, your primary activity is the operation of the multiple listing service. Your organization is similar to the real-estate boards described in Evanston-North Shore Board of Realtors v. U.S., 320 F.2d 375 (1963), and Revenue Ruling 59-234. You are not primarily engaged in activities for the improvement of business conditions within the real estate business. The operation of a multiple listing service is a business of a kind ordinarily carried on for profit. You are performing particular services for your members through the operation of your multiple listing service. In light of these facts, you do not qualify as an organization described in section 501(c)(6) of the Code.